

Message Text

PAGE 01 BERLIN 01129 01 OF 02 051122 Z

12

ACTION EUR-25

INFO OCT-01 ADP-00 CIAE-00 DODE-00 INR-10 NSAE-00 PA-03

RSC-01 USIA-12 PRS-01 IO-13 L-03 SR-02 ORM-03 RSR-01

/075 W

----- 129513

R 050900 Z JUL 73

FM USMISSION BERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 2019

AMEMBASSY LONDON

AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 1 OF 2 BERLIN 1129

E. O. 11652: GDS

TAGS: PGOV, WB, GW, GE

SUBJECT: TWO CONTROVERSIAL BERLIN- GDR EXTRADITION CASES

1. SUMMARY: EXTRADITION REQUEST BY GDR FOR 17- YEAR OLD GIRL ACCUSED OF KILLING HER FATHER BEFORE FLEEING TO WEST BERLIN IS PRESENTING SENAT WITH DIFFICULT CHOICE. WHILE IT IS INCLINED TO ACCEDE TO REQUEST IN ORDER TO ENCOURAGE GDR TO CONTINUE TECHNICAL- LEVEL JUDICIAL COOPERATION, IT HAS ALREADY BEEN SUBJECTED TO CRITICISM FROM CDU AND SPRINGER PRESS, WHICH HAVE TAKEN INTEREST IN CASE. MATTER IS FUTHER COMPLICATED BY COINCIDENCE OF SECOND GDR REQUEST (WHICH SENAT IS UNLIKELY TO GRANT) FOR EXTRADITION OF EAST GERMAN TV PERSONALITY WHOSE FLIGHT TO FRG AND SUBSEQUENT ESTABLISHMENT OF WEST BERLIN RESIDENCE BECAME KNOWN LAST WEEK. (GDR CLAIMS SHE CASHED WORTHLESS CHECKS BEFORE FLEEING COUNTRY WITH 3- YEAR- OLD DAUGHTER.) ALLIED MISSIONS ARE SEEKING TO AVOID APPEARANCE OF INFLUENCING DECISION, WHICH WE FEEL IS BEST LEFT TO GERMAN OFFICIALS. END SUMMARY.

2. ON MAY 7, GDR ATTORNEY GENERAL, HAVING MADE PRELIMINARY TELEPHONE CONTACTS AT LOWER LEVEL, FORMALLY REQUESTED CONFIDENTIAL

PAGE 02 BERLIN 01129 01 OF 02 051122 Z

PUBLIC PROSECUTOR OF KAMMERGERICHT, WEST BERLIN' S HIGHEST COURT, TO ARRANGE FOR RETURN TO GDR OF 17- YEAR OLD INGRID BRUECKMANN TO FACE CHARGES OF KILLING HER FATHER. ATTORNEY GENERAL' S LETTER NOTED BRUECKMANN, FORMER RESIDENT OF

POTSDAM, HAD FLED GDR AND WAS RESIDING IN WEST BERLIN. SENAT INFORMED ALLIES OF REQUEST AND INDICATED IT WISHED TO TAKE FORTHCOMING POSITION IN LIGHT OF FACT THAT GDR HAD OVER RECENT YEARS COOPERATED IN RETURNING NUMBER OF WANTED PERSONS TO WEST BERLIN. ALLIES TOOK POSITION THAT MATTER WAS ESSENTIALLY ONE FOR LOCAL OFFICIALS TO HANDLE BUT THAT WE WOULD APPRECIATE BEING INFORMED OF DEVELOPMENTS.

3. BASICALLY FORTHCOMING SENAT RESPONSE SIGNED BY PUBLIC PROSECUTOR OF KAMMERGERICHT SOUGHT TO MAKE CLEAR THAT SENAT CONSIDERS LEGAL BASIS FOR TURNING ACCUSED OVER TO GDR WAS 1953 FRG LAW ON INNER- GERMAN JUDICIAL AND OFFICIAL ASSISTANCE IN CRIMINAL CASES, WHICH HAD BEEN TAKEN OVER IN BERLIN. LAW PROVIDES THAT FRG OR WEST BERLIN COURT OUTSIDE AREA OF APPLICABILITY OF LAW, THAT IS TO GDR COURT, WHEN TO DO SO WOULD NOT BE CONTRARY TO FRG LAW OR GENERALLY OFFENSIVE TO BASIC LEGAL OR HUMAN RIGHTS. TECHNICAL TERM USED, WHICH WAS REPEATED IN SENAT LETTER, IS "ZULIEFERUNG" RATHER THAN "AUSLIEFERUNG" WHICH IS INTENDED TO DISTINGUISH INNER- GERMAN TURNOVER FROM INTERNATIONAL EXTRADITION.

4. SENAT LETTER ALSO SOUGHT ASSURANCES FROM GDR THAT (A) GIRL WOULD ONLY BE TRIED FOR KILLING, NOT FOR ESCAPE OR OTHER ACT; (B) IF CONVICTED SHE WOULD RECEIVE SENTENCE NOT TO EXCEED STATUTORY MINIMUM OF TEN YEARS PROVIDED BY GDR LAW FOR MURDER OR VOLUNTARY MANSLAUGHTER; (C) GIRL WOULD BE GUARANTEED RIGHT TO RETURN TO WEST

BERLIN AFTER ACQUITTAL, SERVING OF SENTENCE OF RELEASE FROM MENTAL CLINIC SHOULD SHE BE SENT TO SUCH AN INSTITUTION; (D) TIME SPENT IN DETENTION IN WEST BERLIN WHILE DISPOSITION OF CASE BEING DECIDED WOULD COUNT AGAINST ANY SENTENCE; (E) GIRL COULD RETURN TO WEST BERLIN AFTER MAXIMUM OF 10 YEARS, EVEN IF MEDICAL VIEW WAS THAT SHE SHOULD REMAIN UNDER MEDICAL CUSTODY; (F) MEMBERS OF HER FAMILY LIVING CONFIDENTIAL

PAGE 03 BERLIN 01129 01 OF 02 051122 Z

IN WEST BERLIN COULD VISIT HER REGULARLY IN CONFINEMENT.

5. GDR ATTORNEY GENERAL PROVIDED WRITTEN ASSURANCES ON ALL POINTS RAISED BY SENAT AND PROVIDED FURTHER ASSURANCES WHEN SENAT REQUESTED CLARIFICATIONS ON SEVERAL POINTS. GDR ALSO DID NOT TAKE ISSUE WITH SENAT REFERENCES TO 1953 FRG LAW AND TO TERMINOLOGY SUCH AS "ZULIEFERUNG," "LAND BERLIN," "BERLIN(OST)," AND "BERLIN(WEST)."

6. PROSECUTOR OF KAMMERGERICHT RULED JUNE 26 THAT GIRL MAY BE TURNED OVER TO GDR, AND KAMMERGERICHT ITSELF IS EXPECTED TO CONFIRM DECISION JULY 6. PROSECUTOR'S DECISION HAS STIRRED CERTAIN AMOUNT OF CONTROVERSY IN SPRINGER PRESS AND WITHIN LOCAL CDU. BERLIN CDU BUNDESTAG

DEPUTY WOHLRABE, FOR EXAMPLE, CALLED DECISION "SCANDALOUS." REACTION WAS PERHAPS SOMEWHAT MUTED, HOWEVER, BY PARTICULARLY SORDID NATURE OF CRIME. FATHER WAS KILLED BY REPEATED BLOWS ON HEAD WITH HEAVY INSTRUMENT AND GIRL, WHILE ADMITTING KILLING, HAS CLAIMED AS DEFENSE THAT SHE WAS BEING RAPED.

7. AS LAST DITCH MANEUVER TO SAVE CLIENT, GIRL'S ATTORNEY ANNOUNCED PUBLICLY THAT HE IS WRITING TO THREE COMMANDANTS REQUESTING THAT THEY EITHER PERMIT HIS CLIENT TO APPEAL TO FEDERAL CONSTITUTIONAL COURT OR THAT THEY SET ASIDE JUDGMENT OF KAMMERGERICHT. BRITISH (IN CHAIR) HAVE PROPOSED THAT BRIEF NEGATIVE REPLY SHOULD BE GIVEN, WHICH POINTS OUT THAT FEDERAL CONSTITUTIONAL COURT HAS NO COMPETENCE IN BERLIN, AND SINCE CASE IS WITHIN COMPETENCE OF BERLIN JUDICIAL AUTHORITIES, ALLIES ARE NOT PREPARED TO INTERFERE WITH DUE PROCESS OF LAW.

8. MATTER WAS COMPLICATED JUNE 28, HOWEVER, BY REVELATION THAT POPULAR GDR TELEVISION ANNOUNCER RENATE HUBIG ESCAPED TO FRG IN EARLY JUNE AND HAS TAKEN UP RESIDENCE IN WEST BERLIN WITH THREE- YEAR - OLD DAUGHTER. SIMULTANEOUSLY WITH ANNOUNCEMENT OF 28- YEAR OLD TV PERSONALITY'S PRESENCE IN WEST BERLIN, GDR RESORTED TO CONFIDENTIAL

PAGE 04 BERLIN 01129 01 OF 02 051122 Z

TO ATTORNEY GENERAL- PUBLIC PROSECUTOR CHANNEL TO REQUEST THAT SHE BE RETURNED TO GDR, WHERE SHE IS ACCUSED OF HAVING CASSED 2700 MARKS OF WORTHLESS CHECKS. GDR REQUEST WAS PUBLISHED IN " NEUES DEUTSCHLAND" AND QUICKLY LINKED IN WEST BERLIN PRESS WITH BRUECKMANN CASE. HUBIN HAS ALREADY APPEARED ON SFB TELEVISION TO EXPLAIN THAT SHE CAME TO WEST BERLIN TO BE WITH HER FIANCEE, AND HUBIG'S MOTHER, WHO WAS ABLE TO COME LEGALLY TO WEST BERLIN FEW DAYS BEFORE HER DAUGHTER FLED, SINCE SHE IS MORE THAT 70, HAS ANNOUNCED THAT CHARGES AGAINST HER DAUGHTER ARE BASELESS AND THAT SHE ALSO INTENDS TO REMAIN IN WEST. THERE IS SPECULATION THAT HUBIG WILL BE HIRED BY SFB.

CONFIDENTIAL

PAGE 01 BERLIN 01129 02 OF 02 051123 Z

12
ACTION EUR-25

INFO OCT-01 ADP-00 CIAE-00 DODE-00 INR-10 NSAE-00 PA-03

RSC-01 USIA-12 PRS-01 IO-13 SR-02 ORM-03 L-03 RSR-01

/075 W

----- 129531

R 050900 Z JUL 73
FM USMISSION BERLIN
TO AMEMBASSY BONN
INFO SECSTATE WASHDC 2020
AMEMBASSY LONDON
AMEMBASSY PARIS

C O N F I D E N T I A L SECTION 2 OF 2 BERLIN 1129

9. COMMENT: IT APPEARS HIGHLY UNLIKELY THAT SENAT WILL CONSIDER RETURNING HUBIG, BUT IF IT PERMITS HER TO STAY WHILE SENDING BACK A MINOR IT WILL HAVE TO BE PREPARED TO FACE PERHAPS GREATER POLITICAL CRITICISM THAT BRUECHMANN CASE ENGENDERED BY ITSELF. ON OTHER HAND, THERE ARE SUBSTANTIVE GROUNDS FOR DISTINGUISHING BETWEEN CASES. BRUCKMANN' S OFFENSE IS ON ITS FACE CLEARLY APOLITICAL AND OF SORT ON WHICH DIFFERENT JURISDICTIONS COMMONLY COOPERATE. CHARGES AGAINST HUBIG, ON OTHER HAND, ARE MUCH LESS SERIOUS AND OF NATURE NOT COVERED BY MANY EXTRADITION AGREEMENTS. WHILE 1953 FRG LAW IS FAIRLY OPEN- ENDED, CELEBRITY STATUS OF HUBIG AND SOMEWHAT SUSPICIOUS NATURE OF CHARGES AGAINST HER SUGGEST THAT SENAT WILL FIND WAY TO TURN DOWN REQUEST.

10 WE CONSIDER THAT OUR MAJOR INTEREST AT THIS STAGE IS TO STAY OUT OF LIMELIGHT AND LET GERMANS WRESTLE WITH PROBLEM. IF BRUECKMANN IS RETURNED AND HIBIG IS NOT, SENAT MAY HAVE SUCCEEDED IN DRAWING USEFUL LINE OF DEMARCATION FOR FURTHER COOPERATION IN JUDICIAL FIELD WITH GDR, AND IT WILL HAVE DISABUSED GDR OF NOTION THAT IT CAN RECOVER ALL REFUGEES MERELY BY BRINGING CHARGES AGAINST THEM. (JUDICIAL COOPERATION BETWEEN WEST BERLIN AND GDR MAY CONFIDENTIAL

PAGE 02 BERLIN 01129 02 OF 02 051123 Z

HOWEVER, BE USED BY GDR AS ARGUMENT AGAINST INCLUDING WEST BERLIN IN FRG- GDR JUDICAIL COOPERATION AGREEMENT ENVISAGED BY SUPPLEMENTARY PROTOCOL TO ARTICLE 7 OF BASIC TREATY.) IF, ON OTHER HAND, GDR CHOOSES TO TAKE OFFENSE AT REJECTION OF ITS REQUEST FOR RETURN OF HUBIG AND EITHER BREAKS WORD ON TREATMENT OF BRUECKMANN OR PUTS END TO DEVELOPING JUDICIAL COOPERATION, IT WILL BE PREFERABLE FOR ALLIES NOT TO BEAR BURDEN OF WHAT COULD BECOME HOT POLITICAL ISSUE. WE ALSO WOULD NOT WISH TO APPEAR EITHER TO FORECLOSE OR ENCOURAGE POSSIBILITY THAT SENAT WILL REVERSE ITSELF ON BRUECKMANN DECISION.

11. IN CIRCUMSTANCES, WE ARE INCLINED TO AGREE WITH SUBSTANCE OF PROPOSED BRITISH RESPONSE (THE MORE SO SINCE WE HAVE DISCOVERED THAT 1953 FRG LAW UNDER WHICH TURN- OVER OF BRUECKMANN IS PROPOSED PROVIDES SPECIFICALLY THAT THE DECISION OF THE HIGHEST LAND COURT

IS NOT APPEALABLE). WE ALSO FAVORE FRENCH SUGGESTION THAT
THERE BE ONE REPLY IN NAME OF CHAIRMAN LEGAL ADVISER. KLEIN

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 10 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 05 JUL 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973BERLIN01129
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: BERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730768/abqceedw.tel
Line Count: 221
Locator: TEXT ON-LINE
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags:
Review Date: 31 JUL 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31-Jul-2001 by shawdg>; APPROVED <10-Sep-2001 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status:
Subject: TWO CONTROVERSIAL BERLIN- GDR EXTRADITION CASES
TAGS: PGOV, GC, GE, WB
To: BONN INFO STATE
LONDON
PARIS
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005